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**Memorandum of Understanding  
between  
Sussex County, Delaware  
and the  
Delaware Office of State Planning Coordination**

**WHEREAS**, the State of Delaware has determined that certain local land use decisions have far reaching and complex effects on the region, resulting in development which often requires the commitment of finite resources by the various levels of government as well as private investors; and

**WHEREAS**, coordinated review of certain development activities would result in a more efficient, effective and timely use of resources and would also achieve consistency and coordination between the various levels of government and other interested parties; and

**WHEREAS**, under Chapter 92 of the Delaware Code, local land use planning actions by local governments are subject to pre-application review processes by the Office of State Planning Coordination (OSPC); and

**WHEREAS**, under Chapter 92, Section 9205 (c) of the Delaware Code, the OSPC shall, through a Memorandum of Understanding, exempt a local jurisdiction from the provisions of the Land Use Act or modify the pre-application process when the local jurisdiction has a Certified Comprehensive Plan and imposes a more stringent review of projects; and

**NOW, THEREFORE, BE IT RESOLVED**, that Sussex County and the Office of State Planning Coordination agree that local land use planning actions defined herein will be subject to State review under Title 29, Chapter 92, Delaware Code.

**FURTHER RESOLVED**, that the stipulations for review of development projects within the Sussex County are as follows:

**Development Activities Requiring State Review**

Any Residential Planned Community


2. Major residential subdivisions containing more than 50 dwelling units, as defined in Title 29, Section 9203.
3. Any non-residential subdivision or site plan involving the expansion of an existing structure by 25 percent with a total floor area exceeding 75,000 square feet or new construction involving structures or buildings with a total floor area exceeding 75,000 square feet.
4. Any rezoning within the Environmentally Sensitive Development District

identified in Sussex County's Comprehensive Plan Update adopted December 10, 2002, that would increase intensity or residential density.

5. Applications for rezoning that are inconsistent with the Sussex County Comprehensive Plan Update adopted December 10, 2002.
6. Any local land use regulation, ordinance or requirement referred to the Office of State Planning Coordination by Sussex County for the purpose of providing the County with advisory comments. These include the modifications to the County's zoning and subdivision ordinances that implement the Comprehensive Plan.
7. Any amendment, modification or update to the Sussex County Comprehensive Plan, as required by Title 9 of the Delaware Code.

In special circumstances, the Office of State Planning Coordination may waive the pre-application requirements of Title 29, Chapter 92 of the Delaware Code. Where such waiver is granted, the Office of State Planning Coordination shall provide a written explanation of the causes for the waiver to the relevant local jurisdiction and the applicant. These circumstances may include, but are not limited to, local governments that impose a more stringent review of projects enumerated in §9203(a) than required by this Chapter, or for projects which will provide an extraordinary benefit to the State and the local jurisdiction through economic development, job creation, educational opportunities, public services or facilities, agricultural preservation, or protection and enhancement of the natural environment.

**BE IT FURTHER RESOLVED**, that this Memorandum of Understanding may be revised from time to time as circumstances warrant, only with the concurrence of both Sussex County and the OSPC, or in relation to significant changes within the State Code.

  
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President, Sussex County Council  
Sussex County, Delaware

10-07-03  
Date

  
\_\_\_\_\_  
Constance C. Holland, Director  
Office of State Planning Coordination

Oct 3, 2003  
Date